THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.24183 of 1999

DATED: 19-04-2007

Between:-

Golla Muthamma and another.

.. Petitioners

and

The Mandal Revenue Officer, Mulakalapalli Mandal, Khammam District and others.

.. Respondents

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.24183 of 1999

ORDER:

This writ petition is filed seeking a mandamus declaring the proceedings, dated 02.02.1999, in Rc.No.B/1786/98, of the 1st respondent and the consequential panchanama, dated 11.02.1999, of the 2nd respondent, as illegal and arbitrary; and consequently to direct the respondents not to interfere with the possession of the petitioners in respect of land admeasuring Acres 14.37 guntas in Sy.Nos.626/31 and 626/34 situated at Narsapuram village, Hamlet of Jagannadhapuram village, Mulakalapalli Mandal of Khammam District.

The brief facts of the case are that the husband of the 1st petitioner and father of the 2nd petitioner, during his life time, purchased dry land in an extent of Acres 11.17 guntas and Acres 3.20 guntas in Sy.No.626/31 and Sy.No.626/34 respectively situated at Narsapuram village, hamlet of Jagannadhapuram village, Mulakalapalli Mandal of Khammam District under two separate sale deeds dated 02.01.1970 and 20.06.1969 respectively. Since the date of purchase, he has been in possession of the said lands. The Government also issued patta in respect of the said lands in his favour. After his death in the year 1991, the petitioners have been enjoying the said lands as his legal heirs. While so, a L.T.R. Case, vide L.T.R.Case No.92/96/MKP, was filed by one Sayani Veeraiah on the file of Special Deputy Collector (Tribal

Welfare), Palwancha in respect of Acres 3-20 guntas in Sy.No.626/34. The Special Deputy Collector, Palwancha, after considering the material on record, came to the conclusion that the provisions of A.P. Scheduled Areas Land Transfer Regulations do not attract in this case and hence dropped the proceedings by his order dated 12.04.1996. The said order became final. While that being so, on 11.02.1999, the 2nd respondent – Mandal Revenue Inspector, Mulakalapalli Mandal, came to their lands along with three panchas and took possession of their lands stating that the land in an extent of about 18 acres in Sy.No.626 is Government land and the same was assigned to tribals vide proceedings, dated 02.02.1999, of the Mandal Revenue Officer, Mulakalapalli, and handed over the possession to respondents 3 to 16, who are tribals. The petitioners complain that their lands are not Government lands and the said proceedings, dated 02.02.1999, were issued without any notice to them. They further complain that the said panchanama, dated 11.02.1999, was conducted behind their back and a copy of the same was also not served upon them.

A detailed counter-affidavit is filed stating that the land in Sy.No.626 is classified as Government poramboke and the petitioners are unauthorized occupiers. Further, as it was required for assigning the same to tribals for agricultural operations, the Mandal Revenue Officer directed the Mandal Surveyor to survey the land and take possession and, accordingly, the Surveyor, after conducting survey, took possession and, thereafter, the same was assigned to respondents 3 to 16 by the Mandal Revenue Inspector and pattas were granted in their favour.

Heard both sides.

In the light of the said admission that Sy.No.626 is classified as

Government Poramboke, even if it is presumed that the said occupation by the petitioners is unauthorized, still the law requires that they should be given notice and then only proceed further. But, the 1st respondent- Mandal Revenue Officer, without resorting to any of the provisions provided either under A.P. Land Encroachment Act or A.P. Assigned Lands (Prohibition of Transfers) Act, simply got the petitioners evicted from the lands in question and, thereafter, assigned the said lands to the tribals, which, in my considered view, is definitely not only contrary to law, but also violative of principles of natural justice. Therefore, the proceedings, dated 02.02.1999, of the 1st respondent and the consequential panchanama, dated 11.02.1999, by the 2nd respondent are hereby set aside.

However, having regard to the fact that this Court is declined to pass any interim orders, the petitioners cannot be inducted into possession of the lands in question at this length of time.

Accordingly, this writ petition is disposed of with a direction to the 1st respondent - Mandal Revenue Officer to issue notice as provided for under the law and, thereafter, hold an enquiry and pass appropriate orders. Pending disposal of the said enquiry by the 1st respondent, respondents 3 to 16 are directed not to alienate the lands in question or create third party interest over the same.

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GOPALA KRISHNA TAMADA, J

19th April, 2007

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